

***United States Court of Appeals
for the Second Circuit***



APPENDIX

74-1921

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

STANLEY V. TUCKER,
Plaintiff-Appellant

T-3642

-vs-

No 74- 1921



JEAN NEAL, ROBERT R. ANDERSON,
and ANDERSON & ANDERSON, etc.
Defendants -Appellees

B P/S

.....
APPELLANT'S

APPENDIX
.....

.....
Appeal From Final Judgment Entered
on Cross-Motions For Summary Judgment
on May 29th, 1974 (Ruling dated March
5th, 1974) and

Appeal From Final Order or Judgment
Made June 11, 1974 Denying Motion
For New Trial and Motion To vacate
Judgment
.....

HONORABLE T. EMMET CLARIE
TRIAL JUDGE

=====

STANLEY V. TUCKER
APPELLANT/PLAINTIFF
Box 35
Hartford, Conn 06101

PAGINATION AS IN ORIGINAL COPY

DISTRICT OF CONNECTICUT

MAR 12 11 09 AM '74

U.S. DISTRICT COURT
HARTFORD, CONN.

STANLEY V. TUCKER,

-v-

JEAN NEAL, ROBERT R. ANDERSON,
and ANDERSON & ANDERSON, etc.

CLERK
U.S. DISTRICT COURT
HARTFORD, CONN.
C. A. No H-8

PLAINTIFF'S MOTION PURSUANT TO FRCP RULE 60 (a) and (b)
FOR ORDER VACATING RULING OR JUDGMENT OF MARCH 5, 1974
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT.

NOTICE: DEFENDANTS HEREIN PLEASE TAKE NOTICE that on the
first available motion day Plaintiff will move the above
entitled court in the South Courtroom, 450 Main St, Htfd,
Conn for its order vacating the Order or Judgment of March
5th, 1974 and for its order granting Plaintiff's motion
For Summary Judgment and for such other or further order
as to this court may be just under the circumstances.

MOTION: This motion will be based upon the grounds of
surprise and fraud as set forth below and on error in
the ruling or judgment and upon all of the grounds and
exhibits and upon the brief annexed to Plaintiff's Motion
For a New Trial of same date and upon all pleadings and
documents on file herein.

By

Stanley V. Tucker
STANLEY V. TUCKER

"The Plaintiff's Motion filed March 12, 1974, requesting that
the Court grant a new trial and vacate judgment entered May 29,
1974, is denied. So ordered."

[Signature]
U.S.D.J.

6/11/74

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UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STANLEY V. TUCKER

-vs-

Civil No. H-8

JEAN NEAL, ROBERT R. ANDERSON,
and ANDERSON & ANDERSON, etc.

RULING ON CROSS-MOTIONS
FOR SUMMARY JUDGMENT

The plaintiff, Stanley V. Tucker, commenced this pro "civil rights action," seeking monetary damages, a declaratory judgment, and injunctive relief against the individual defendants, who are citizens of the State of California, and the California-based law partnership of Anderson & Anderson.^{1/} The thrust of the complaint is the plaintiff's contention that the defendants conspired to cause, and did in fact cause, to be recorded upon the land records in various towns in which the plaintiff owns property, fourteen judgment liens which the plaintiff variously describes as "false," "fraudulent," and "pretended." The defendants have counterclaimed, seeking a foreclosure of as many liens as may be required to satisfy their judgment, together with costs. The parties have filed cross-motions for summary judgment pursuant to Rule 56, Fed. R. Civ. P. The Court, having considered the numerous memoranda, affidavits, and papers filed in connection with the present action, finds that the plaintiff

Tucker's motion for summary judgment should be denied, and that the defendants' motion for summary judgment should be granted.

I.

A brief statement of the factual background of this case is essential to an understanding of the posture of the parties' respective claims. The defendant Robert R. Anderson is a California attorney and a member of the defendant law firm of Anderson & Anderson. Attorney Anderson's affidavit represents that he first met the plaintiff in California in 1966 during his representation of the plaintiff's former wife after her divorce from the plaintiff. The affidavit further states that subsequent to that time, Attorney Anderson saw the plaintiff Tucker on numerous occasions, usually in connection with pro se litigation commenced by him "in California courts from Los Angeles to San Jose." ^{2/}

The affidavit of Attorney Anderson states, and the plaintiff does not dispute, that one of the plaintiff's numerous pro se actions in the State of California was a \$215,000 damage suit filed in the Santa Barbara Superior Court against Jean Neal, a defendant in the present action. According to the Anderson affidavit, that suit was ultimately dismissed, but "when Mr. Tucker sued Mrs. Neal again, this time in Santa Clara County for \$292,000," he advised her to bring a legal action for malicious prosecution. ^{3/} Following her counsel's advice, Mrs. Neal filed suit against the plaintiff Tucker in the Ventura County Superior Court, Civil No.

50,686. The affidavit further represents, and the plaintiff does not dispute, that a \$341,000 counterclaim was filed by him, and that he personally and without counsel participated in all stages of this litigation, including a jury trial which was held during the latter part of April of 1969. That trial resulted in a jury verdict in Mrs. Neal's favor in the amount of \$20,723.61. Judgment was accordingly entered upon that verdict and it thereafter became finalized.

In July of 1971, Jean Neal brought an action on her state court judgment in the United States District Court for the Northern District of California, Civil No. 71-1447-AJZ. The purpose of this action was to establish a judgment registrable pursuant to 28 U.S.C. § 1963^{4/}, and, hence, enforceable against the plaintiff Tucker's assets in the State of Connecticut. The Anderson affidavit represents that the plaintiff was served by registered mail in that action; that he admitted service; and that he appeared specially to contest the Court's jurisdiction in personam. The Court, however, ruled adversely to him both on his motion to dismiss for lack of jurisdiction and, again, in passing upon Mrs. Neal's motion for summary judgment, which was granted on July 21, 1972, approximately a year after the commencement of the action in the Northern District of California. Judgment was entered on that same day^{5/}^{6/}.

On September 25, 1972, over two months after the entry

of summary judgment in Mrs. Neal's favor, the plaintiff Tucker filed with the Clerk of the Northern District an "Application for Extension of Time to File Notice of Appeal."^{7/} Paragraph Six (6) of that application concedes that the plaintiff failed to file a timely appeal of the order of summary judgment entered against him. It states, "[as] a result of pre-occupation [sic] . . . Defendant [Tucker] missed getting a notice of appeal in within the time proscribed [sic] by Rule 4(a) FRAP." This application for an extension of time within which to appeal the entry of summary judgment was denied on October 20, 1972.^{8/}

On November 3, 1972, notice was given that the plaintiff intended to appeal the order of Judge Zirpoli, denying^{9/} his request for an extension of time within which to appeal. An appeal was ultimately taken to the United States Circuit Court of Appeals for the Ninth Circuit, where it was dismissed on March 27, 1973, for lack of appellate jurisdiction.^{10/} The plaintiff Tucker then filed a petition for a writ of certiorari to the United States Supreme Court. The writ, however, was denied on October 9, 1973. See Tucker v. Neal, ____ U.S. ____, 94 S.Ct. 49 (1973).^{11/} In the meantime, on September 5, 1972, Mrs. Neal filed with the Clerk of the District of Connecticut, a certification of judgment of \$25,141.70, which she had obtained against Tucker in the Northern District of California.^{12/} Thereafter, the defendants recorded Mrs. Neal's

judgment liens in the Connecticut land records of the Towns of Hartford, Bristol, and Torrington where the plaintiff owns property.

On April 10, 1973, the plaintiff brought this action, seeking inter alia the nullification of those liens as well as monetary damages. Over the defendants' objections, this Court permitted an amendment to the complaint, allowing the plaintiff to add a "second cause of action" attacking on due process grounds the jurisdictional basis for the California judgment.

II.

The legal issues before the Court are far less complex than the plaintiff would make them. Rule 56(c) of the Federal Rules of Civil Procedure directs that summary judgment

"shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

The purpose of the rule in part is to protect both litigants and the Court from frivolous claims and defenses, and to defeat attempts to use formal pleadings as a means to delay the recovery of just demands. Engl v. Aetna Life

Insurance Co., 139 F.2d 469, 472-473 (2d Cir. 1943). Although the party moving for summary judgment must sustain the burden of showing the non-existence of factual issues which are both material and genuine, Boyce v. Merchants Fire Insurance Co., 204 F.Supp. 311, 313 (D. Conn. 1964), it is clear that an unsupported contention that such an issue does in fact exist is insufficient to defeat summary judgment. Boyce v. Merchants Fire Insurance Co., supra. Also see Waldron v. British Petroleum Co., 38 F.R.D. 170, 173 (S.D.N.Y. 1965), aff'd 361 F.2d 671 (2d Cir. 1966), aff'd sub nom. First National Bank of Arizona v. Cities Service Co., 391 U.S. 253 (1968).

Not only has the plaintiff Tucker failed to set forth "specific facts or evidentiary data . . . [or] concrete particulars," showing there is an issue to be tried, Dressler v. M.V. Sandpiper, 331 F.2d 130, 133 (2d Cir. 1964), he has also neglected to "adduce factual material which raises a substantial question of the veracity or completeness of the movant's showing or presents countervailing facts." Beal v. Lindsay, 468 F.2d 287, 291 (2d Cir. 1972). Any dispute between the plaintiff and the defendants is purely one as to the law and is, therefore, well-suited to summary disposition. See generally 6 J. Moore, Federal Practice ¶ 56.15 [1.02] at 2291-2297 (1972 ed.).

III.

Several arguments are advanced by the plaintiff in support of his present claims. The first of these, a multi-pronged constitutional argument which is never fully or clearly developed by the plaintiff, attempts to equate the recordation of a lien based on a judgment obtained in another forum with the type of property deprivations with which the Court was concerned in Snaidach v. Family Finance Corp., 395 U.S. 337 (1969); Lynch v. Household Finance Corp., 405 U.S. 538 (1972); and Fuentes v. Shevin, 407 U.S. 67 (1972). This equation fails for several reasons.

To the extent that plaintiff claims Snaidach, Lynch, and Fuentes require a hearing before the recordation in one jurisdiction of a judgment lien arising from a constitutionally valid judgment in another jurisdiction, he is plainly wrong. The Fuentes decision, like Snaidach and Goldberg v. Kelly, 397 U.S. 254 (1970), marked no radical departure from established principles of procedural due process.

"[Those] decisions were in the mainstream of past cases, having little or nothing to do with the absolute 'necessities' of life but establishing that due process requires an opportunity for a hearing before a deprivation of property takes effect. E.g., Opp Cotton Mills v. Administration, 312 U.S. at 152-153; United States v. Illinois Central R. Co., 291 U.S. at 463; Southern R.Co. v. Virginia, 290 U.S. 190; Central of Georgia v. Wright, 207

U.S. 127; Security Trust Co. v. Lexington,
203 U.S. 323; Hibbin v. Smith, 191 U.S. 310;
Glidden v. Harrington, 189 U.S. 255." Fuentes
v. Shevin, 407 U.S. at 88-89 (footnote omitted).

"'Due process' is an elusive concept. Its exact boundaries are undefinable, and its content varies according to specific factual contexts." Hannah v. Larche, 363 U.S. 420, 442 (1960); Hill Construction Co. v. State of Connecticut, 366 F.Supp. 737 (D. Conn. 1973). While its very nature is such to preclude the universal application of a single, inflexible procedure, id. at 742, in a Fuentes-like context "[d]ue process is afforded . . . by the kinds of 'notice' and 'hearing' that are aimed at establishing the validity, or at least the probable validity, of the underlying claim against the alleged debtor before he can be deprived of his property" Fuentes v. Shervin, 407 U.S. at 67.

In the present case, the uncontroverted affidavit of the defendant Robert Anderson establishes, and this Court finds, that the plaintiff Tucker appeared and participated in the California trial which resulted in the underlying state court judgment in favor of Mrs. Neal. That affidavit further represents, and this Court also finds, that the plaintiff was also given the opportunity for a hearing, and did in fact have a hearing, in the United States District Court for the Northern District of California in an action

on the underlying state court judgment. Not only does the rationale of Fuentes and Snaidach not apply to the set of facts at hand, but it is difficult to conceive of how the plaintiff could have been afforded a more meaningful opportunity to be heard. The plaintiff, in sum, not only had an adequate opportunity to be heard, but enjoyed a full scale trial in the state court and a subsequent hearing in United States District Court as well.

The plaintiff next argues that his constitutional rights were violated by the liens in question being recorded prior to the time that the judgment upon which they were based became final. Until such time as the underlying judgment became final, the plaintiff maintains, the judgment was not registrable pursuant to 28 U.S.C. § 1963, and the liens in question could not, therefore, be recorded on the Connecticut land records. The chief difficulty with the plaintiff's argument is that it ignores the facts and disregards the law.

By its terms, 28 U.S.C. § 1963 permits the registration of only those judgments which have become "final," but recognizes that finality may result either "by appeal or by expiration of the time for appeal." The foregoing phrase, which must be given its "ordinary, usual, and natural interpretation," Abegglen v. Burnham, 94 F.Supp. 483, 486 (C.D.

Utah 1950), simply means that a judgment is not final, and hence not registrable under 28 U.S.C. § 1963, until a direct challenge to its validity is "disposed of" on appeal, or the time within which an appeal may be lodged has lapsed. Abeg-
glen v. Burnham, supra, Cf. Restatement, Conflict of Laws, § 435, comment c, at 519 (1934).

Here the uncontroverted facts indicate, and this Court accordingly finds, that neither the underlying state court judgment against the plaintiff Tucker, nor the Order of the United States District Court for the Northern District of California, granting the defendant Jean Neal's motion for summary judgment on the underlying state court judgment were ever appealed. There is, therefore, simply no basis in law or fact for the plaintiff's contention that the judgment against him was registered in Connecticut before it became final within the meaning of 28 U.S.C. § 1963. The only thing appealed by the plaintiff Tucker was the post-judgment order of Judge Zirpoli, denying the plaintiff an extension of time within which to file an appeal. Far from being an appeal of the original order entering judgment against him, the plaintiff's appeal merely sought review of the Court's ruling on his September 25, 1972, "Application for an Extension of Time to File Notice of Appeal." (Defendants' Exhibit C). Paragraph Six (6) of that application concedes that the plaintiff failed to file a timely appeal from the order of summary judgment itself.

There is no merit to the plaintiff's argument that his appeal of Judge Zirpoli's "Order Denying Application for Extension of Time to File Notice of Appeal" deprived either the underlying state court judgment or the subsequent federal court judgment of finality. If an otherwise final judgment could be deprived of finality by the lodging of an appeal from a post-judgment order denying a litigant an extension of time within which to appeal that judgment, then there is no logical reason why the finality of a judgment should not also be made to await the outcome of appellate review of other post-judgment orders. If this were the case, however, the strong public policy favoring the termination of litigation through the finality of judgments, see e.g., Baldwin v. Iowa State Travelling Men's Association, 283 U.S. 522, 524-526 (1931), would be far too easily frustrated by the simple filing of a post-judgment motion. Logically, a judgment could never truly be final as long as the possibility existed that a post judgment motion might be filed, since the appeal from any ruling on such a motion would be deemed to have enmeshed the underlying judgment itself in an appeal, thereby depriving it of finality. The law wisely rejects the plaintiff's hypothesis.

The plaintiff's application for an extension of time within which to appeal the entry of summary judgment against him was filed well after the time for the filing of a notice

for appeal had expired. Paragraph Six (6) of the "Application" itself admits that timely notice of appeal was not given. Plaintiff's request for an extension of time, therefore, enjoys no greater status and stands on no stronger footing than does, for example, a motion to vacate the judgment or a motion for a new trial. It is settled beyond peradventure that such motions do not destroy the finality of an underlying money judgment. Stovall v. Banks, 77 U.S. (10 Wall.) 583, 587 (1870); Loeber v. Schroeder, 149 U.S. 580, 585 (1892). See also Restatement, Judgments, § 41, comment d, at 163-164 ^{13/}(1942).

The second count of the complaint launches a collateral attack on the jurisdictional basis for the California judgment. Thompson v. Whitman, 85 U.S. (18 Wall.) 457 (1873). The plaintiff argues that the judgment of the United States District Court for the Northern District of California is void, since the Court lacked jurisdiction over his person. The defendants do not dispute the general proposition that "proceedings in a court . . . to determine the personal rights and obligations of parties over whom that court has no jurisdiction, do not constitute due process of law." Pennoyer v. Neff, 95 U.S. 714, 733 (1878). Rather, the defendants argue that plaintiff's contacts with the State of California were more than adequate to establish in personam jurisdiction and that, in any event, principles of res

judicata preclude a collateral attack on the jurisdictional basis for the California judgment.

Taking the defendants' second argument first, this Court finds that res judicata does preclude collateral attack on the California judgment, and that the plaintiff's position is in reality no different than that of the respondent Association in Baldwin v. Iowa State Traveling Men's Association, 283 U.S. 522 (1931). In that case the Court held that the respondent, an Iowa corporation which had unsuccessfully challenged the in personam jurisdiction of a Missouri court and thereafter permitted its judgment to become final, was precluded from later collaterally attacking the jurisdictional basis of that judgment. In addressing itself to the respondent's claims, the Court stated:

"The respondent . . . insists that to deprive it of the defense which it made in the court below, of lack of jurisdiction over it by the Missouri District Court, would be to deny the due process guaranteed by the Fourteenth Amendment; but there is involved in that doctrine no right to litigate the same question twice"

"The substantial matter for determination is whether the judgment amounts to res judicata on the question of the jurisdiction of the court It is of no moment that the appearance was a special one expressly saving any submission to such jurisdiction. That fact would be important upon appeal from the judgment, and would save the question . . . even though . . . respondent had proceeded . . . to a trial on the merits. [Citations omitted]"

"Public policy dictates that there be an end of litigation; that those who have contested an issue shall be bound by the result of the contest, and that matters once tried shall be considered forever settled"
283 U.S. at 524-525.

Also see Durfee v. Duke, 375 U.S. 106 (1963); Treinies v. Sunshine Mining Co., 308 U.S. 66 (1939); Chicago Life Insurance Co. v. Cherry, 244 U.S. 25 (1917); Southard v. Southard, 305 F.2d 730 (2d Cir. 1962); Restatement, Judgments, § 5, comment j, at 35 (1942).

The uncontroverted facts indicate that the plaintiff appeared specially before the California Federal District Court; that he contested that Court's jurisdiction over his person by filing a motion to dismiss for lack of in personam jurisdiction; that the proceedings were determined adversely to him, with an order for summary judgment being entered against him on July 21, 1972; and that, by reason of the plaintiff's failure to appeal, it became a final judgment. On these facts, the Court concludes as a matter of law that the plaintiff Stanley Tucker is precluded by the doctrine of res judicata from collaterally attacking either the judgment or the jurisdictional basis for the judgment of the United States District Court for the Northern District of California.

There is absolutely no merit to the plaintiff's contention that the District Court never determined or otherwise passed upon his jurisdictional challenge. The Court's

entry of summary judgment against the plaintiff was a tacit rejection of his jurisdictional challenge and a finding, albeit implicit, of "all the facts necessary to sustain the judgment." Fayerweather v. Ritch, 195 U.S. 276, 302 (1904). Cf. Napa Valley Electric Co. v. Railroad Commission, 251 U.S. 366, 372-373 (1919). No explicit finding of in personam jurisdiction, and certainly no memorandum of decision rejecting the plaintiff's jurisdictional claims, is necessary. See Yates v. United States, 354 U.S. 298, 336 (1956); Nelson v. Swing-Away Mfg. Co., 266 F.2d 184, 187 (8th Cir. 1959).

Although non-essential to its determination that the judgment of the United States District Court for the Northern District of California is valid in all respects, see Chicago Life Insurance Co. v. Cherry, 244 U.S. 25 (1917), this Court also finds that the plaintiff's contacts with the State of California were more than sufficient to satisfy "traditional notions of fair play and substantial justice." International Shoe Co. v. State of Washington, 326 U.S. 310, 316 (1945). The uncontroverted affidavit of the defendant Anderson details the plaintiff's activities in the State of California. At the very least, that affidavit paints the portrait of a person who has on a minimum of thirty-six occasions purposely availed himself of the privilege of conducting activities within the forum state. Hanson v. Denckla, 355 U.S. 220 (1957).

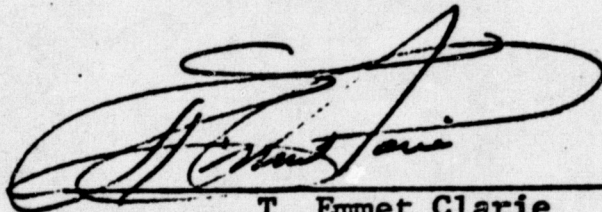
Surely the plaintiff's maintenance of over three-dozen pro se law suits within the State of California is no less of a significant contact with that forum than is the defendants simple, allegedly tortious recordation of their judgment liens in the State of Connecticut. The plaintiff's authority to the contrary is inapposite.

The Court has considered the remainder of the plaintiff's arguments and finds them to be without merit and undeserving of further comment.

The plaintiff Stanley Tucker's motion for summary judgment is denied. The defendants' motion for summary judgment is granted. An order may enter giving judgment to the defendant Jean Neal in the amount of \$25,141.70 plus interest and taxable costs; the defendants are entitled to a judgment of foreclosure; supplemental proceedings will be held to determine which of the plaintiff's parcels of property will be sold to satisfy the defendant Jean Neal's judgment.

SO ORDERED.

Dated at Hartford, Connecticut, this 5th day of March, 1974.



T. Emmet Clarie
United States District Judge

-vs-

Civil No. H-8

JEAN NEAL, et al

RULING ON MOTION TO
DISCHARGE EXCESSIVE LIENS

The plaintiff, Stanley V. Tucker, has filed a "Motion to Discharge Excessive Liens" pursuant to Connecticut General Statute § 49-50^{1/}. That statute, which by virtue of Rule 69(a), Fed. R. Civ. P., would be applicable in an appropriate proceeding in this Court, permits any person to "bring a complaint," alleging that real property in which he is interested is "covered by a judgment lien . . . ," and "that such lien covers more than sufficient property to reasonable secure such judgment. . . ." The plaintiff contends that certain property owned by him at 38 S. Whitney Street in Hartford is adequate to secure the defendant Jean Neal's judgment against him and that, therefore, the remaining judgment liens which the defendant Neal has filed against the plaintiff's other real estate throughout Connecticut should be discharged as superfluous. The motion is denied.


^{1/} Conn. Gen. Stat. §49-50 provides:

"Any person interested, as a subsequent encumbrancer or otherwise, in any real estate covered by a judgment lien may bring a complaint, alleging that such lien covers more than sufficient property to reasonably secure such judgment; and the court may, upon such allegation being proved, discharge from such lien any of such real estate which is not needed for the reasonable security of the judgment debt; and the jurisdiction of the court shall be determined by the amount of the judgment debt as stated in the certificate of lien."

The present "motion" was filed prior to this Court's ruling on the parties' cross-motions for summary judgment. That ruling rejected the plaintiff's constitutional and statutory challenges to the validity of the California judgment upon which the liens in question are based, and held that the defendant Jean Neal was entitled to a judgment of foreclosure. The ruling also directed that "supplemental proceedings . . . be held to determine which of the plaintiff's parcels of property will be sold to satisfy the . . . judgment." The plaintiff may at that time present evidence as to the value of his property at 38 S. Whitney Street. Until that time, a discharge of any of the judgment liens in question would in this Court's view unduly jeopardize the defendant's security, as well as violate the terms of Connecticut General Statute § 49-50, which indicates that the proper procedure for testing the adequacy of a judgment lienor's security is the presentation of live evidence in a hearing conducted for that purpose.

The motion is denied. SO ORDERED.

Dated at Hartford, Connecticut, this 8th day of March, 1974.

A handwritten signature in dark ink, appearing to read "T. Emmet Clarie", is written over a horizontal line.

T. Emmet Clarie
United States District Judge

DISTRICT OF CONNECTICUT

C. A. No H-8

STANLEY V. TUCKER,
Plaintiff.

-vs-

JEAN NEAL, ET AL.
Defendants

C. A. NO H-8 NOTICE OF MOTION
and
PLAINTIFF'S MOTION TO AMEND
COMPLAINT BY ADDING CAUSES
OF ACTION
SEPTEMBER 10, 1973

.....
Please take notice that the undersigned will bring on
the attached "Motion To Amend Complaint by Adding Causes of
Action" for a hearing before this Court in the South Courtroom
of the United States District Court for the District of Conn.
450 Main Street, Hartford, Conn on October 1st, 1973 at
10:00 am. or as soon thereafter as matter may be heard.

Dated: September 10, 1973

By

Stanley V. Tucker
STANLEY V. TUCKER

MOTION TO AMEND COMPLAINT

Pursuant to FRCP Rule 15(a) Plaintiff moves in the interest
of justice this Honorable Court for leave to amend his com-
plaint by adding causes of action as set forth in the proposed
amendment to complaint annexed hereto.

By

Stanley V. Tucker
STANLEY V. TUCKER

"The Plaintiff's motion filed Sept 14, 1973, requesting
permission of the Court to amend his complaint is granted
in part and denied in part. The Court grants permission to
the plaintiff to amend by adding the "second cause of action"
recited in his proposed amendment; but the Court denies him
permission to amend said Complaint to include "the third
cause of action," because the latter allegations fail to
state a claim on which relief can be granted. SO ORDERED.

E. Emmet Clarie USDJ 10/2/73

-vs-

PROPOSED FIRST AMENDED
COMPLAINT

JEAN NEAL, et al

Defendants

SEPTEMBER 10, 1973

.....

Pursuant to FRCP Rule 15 (a), with leave of the Court, Plaintiff a hereby designates the complaint on file as "First Cause of Action" and hereby amends his complaint to add the causes of action set forth hereinbelow:

SECOND CAUSE OF ACTION -

1. This is an action for declaratory and injunctive relief and for damages authorized by 42 USC Sections 1983 and 1985.
2. Jurisdiction in conferred on this Court by Title 28U. S. C. 1331, 1332, and 1343 (1), (2), (3), and (4), and by Title 28 U. S. C. 1655, and by Title 28 U. S. C. 2201 and 2202.
3. The Plaintiff is a resident and citizen of the State of Connecticut and the Defendants, Jean NEAL and ROBERT R. ANDERSON, are all residents and citizens of the State of California and ANDERSON & ANDERSON is believed to be a foreign partnership located within the State of California.
4. That Plaintiff seeks in these proceedings a declaratory order or declaratory judgment of this court declaring that the Order Granting Summary Judgment dated July 20, 1972 in the United States District Court - Northern District of California, copy annexed and made part of this complaint as Exhibit "A", is null and void as made without due process and in violation of Plaintiff's fundamental federally guaranteed rights by reason that the United States District Court - Northern District of California did not have jurisdiction over Plaintiff by reason Plaintiff did not have the necessary

minimum activities within the State of California.

4. Plaintiff seeks declaratory order or declaratory judgment of this court declaring that the nine pretended judgment liens annexed to the "First Cause of Action" as Exhibits "B", "C", "D", "E", "F", "G", "H", and "I", AND "J" AS WELL as the additional pretended judgment liens annexed to this amendment to the complaint as Exhibits "K", "M", "N", "O", and "P", "Q" are each and all null and void by reason that the pretended judgment or order upon which said judgment liens are based, is null and void as outlined in Paragraph (3) above.

5. Plaintiff seeks temporary, preliminary and permanent injunctions restraining the defendants and each of them from any delay in properly preparing and properly and promptly recording releases from each of the pretended judgment liens set forth in Para (4) above; and or in the alternate Plaintiff seeks an order of this court declaring said pretended judgment liens as discharged and released of record.

6. Plaintiff seeks damages by reason that the pretended judgment liens filed willfully and maliciously have caused a cloud upon title to all the properties of Plaintiff and Plaintiff has been denied the right to sell or mortgage said properties and further denied the right to build on said properties to the extent liens prevented recording of a first mortgage and has suffered increased interest costs due to inflation and has suffered and will suffer greatly increased costs of interest and construction and has suffered damages to his business reputation by reason of publication of said liens in the COMMERCIAL RECORD without notice or hearing to Plaintiff. Plaintiff claims damages of \$500,000.00

THIRD CAUSE OF ACTION

1. This is an action for declaratory and injunctive relief and for damages authorized by 42 USC Sections 1983 and 1985.

2. Jurisdiction is conferred on this Court by Title 28 USC 1331 and 1343 (1), (2), (3), and (4) and by Title 28 USC 2201 and 2202 and Title 28 USC 2281 and 2284. The matter in controversy exceeds \$10,000.00 exclusive of interest or costs and arises under the Constitution and laws of the United States and more particularly under the First, the Fifth and Fourteenth Amendments to the United States Constitution, which said Amendments guarantee the right to due process of law and to equal protection of the laws and to liberty in ones person and/or property.

3. This action seeks a declaratory judgment that Conn. G. S. 49-44 is unconstitutional and void by reason that said statute denies due process and denies equal protection of the laws because said statute permits:

- a. Levying of pretended judgment liens without notice or hearing
- b. Levying of pretended judgment liens for months or years without any notice ever being required to be given after the pretended judgment liens are recorded
- c. Levying of pretended judgment liens without any means or method of prompt and speedy release if said pretended judgment liens are false, or invalid
- d. Levying of pretended judgment liens upon property of purported debtor without limit as to the amount of property that can be liened.

e. No balancing of interests of creditor vs debtor as to hardship on debtor and to avoid undue damages or losses to debtor resulting from false or invalid or excessive liens.

4. This action seeks injunctive relief, both temporary and permanent pursuant to Title 42 U. S. C. 1983 and 1985 and Title 28 USC 2281 and 2284 restraining the Defendants and each of them from any delay in properly preparing and properly executing and promptly and properly recording releases of each of the pretended judgment liens annexed to the First Cause of Action and also annexed to the Second Cause of Action herein; further injunctive relief, both temporary and permanent is sought restraining the defendants from recording future judgment liens upon property of Plaintiffs without notice or hearing.

5. This action seeks money damages by reason that the pretended judgment liens filed willfully and maliciously have caused a cloud upon title to all the properties of Plaintiff and Plaintiff has been denied the right to sell or mortgage properties he owns and further been denied the right to build on said properties to the extent liens prevented recording of a first mortgage and has suffered an and will suffer increased costs of interest and construction due to inflation due to delays while liens are in effect and has suffered damages to his business reputation by reason of publication of said liens in the COMMERCIAL RECORD without notice or hearing to Plaintiff, Plaintiff claims damages of \$500,000.00

6. This is a proper case for determination by a three-judge district court, pursuant to 28 USC Sections 2281 and 2284 because it seeks a permanent injunction to restrain defendants acting in concert with local officers, town clerks of the towns of Hartford, Bristol and Torrington, who are performing a state function embodying policies of state-wide concern, from applying, enforcing, executing and implementing Conn. Gen. Statute 49-44.

WHEREFORE, plaintiff respectfully prays that this Court grant on the Second and Third Causes of Action the relief set forth below:

1. Assume jurisdiction and convene a three-judge court.
2. Enter a final judgment pursuant to 28 USC Sections 2201 and 2202 and Rule 57 FRCP : that the ORDER GRANTING SUMMARY JUDGMENT dated July 20, 1972 and made in the USDC - Northern District of California and all of the pretended judgment liens annexed to the First Cause of Action herein as Exhibits and all of the pretended judgment liens annexed to this FIRST AMENDED COMPLAINT are null and void as contrary to the United States Constitution and the amendments thereto and as violative of Plaintiff's fundamental federally guaranteed rights.
3. Enter a final judgment pursuant to 28 USC Sections 2201 and 2202 and Rule 57 FRCP that Conn. G. S. 49-44 is null and void as violative of the United States Constitution and the Amendments thereto and violative of Plaintiff's fundamental federally guaranteed rights.

4. Enter temporary, preliminary, and permanent injunctions restraining the defendants from ever again preparing and filing judgment liens against property of Plaintiff pursuant to Conn G. S. 49-44.
5. Enter temporary, preliminary and permanent injunctions restraining the Defendants from any delay in properly preparing and properly executing and properly and promptly recording with the Town Clerks releases of each and every pretended judgment lien complained of herein; or alternatively an order of this court declaring each of the pretended judgment liens as null and void and release of record.
6. Damages of \$500,000.00
7. Grant Plaintiff his costs herein.
8. Grant Plaintiff such other and further relief as to this court may appear appropriate.

- 5 -

By

Stanley W. Tucker
STANLEY W. TUCKER

2 POST OFFICE BOX 109
3 PHONE (805) 525-5564 . 647-6377
4 Santa Paula, California 93060

5 Attorneys for Plaintiff
6
7

8 UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 JEAN. NEAL,

12 Plaintiff,

13 -vs-

14 STANLEY V. TUCKER,

15 Defendant.
16

17 Civil No. C-71 1447 AJZ

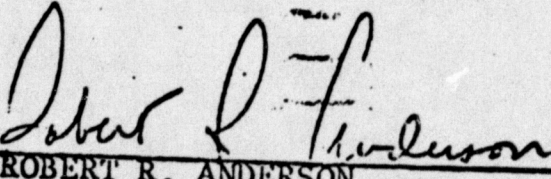
18 APPLICATION OF PLAINTIFF FOR
19 ISSUANCE OF SUMMONS, AFFIDAVIT
20 OF ROBERT R. ANDERSON, and
21 POINTS AND AUTHORITIES
22

23 Plaintiff JEAN NEAL, through her counsel ROBERT R.
24 ANDERSON, hereby applies ex parte for an order directing the
25 Clerk of the Court to issue summons in the form attached hereto
26 and to transmit the same to plaintiff's counsel for service on
27 defendant outside the State of California in a manner authorized
28 by Rule 4(e), F.R.Civ.P.

29 The application is based upon the attached Affidavit of
30 ROBERT R. ANDERSON and memorandum of Points and Authorities, and
31 is accompanied by a proposed form of order.
32

33 Dated: September 3, 1971.

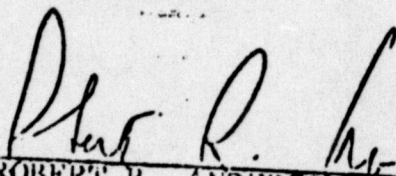
34 -E 1-

35 
36 ROBERT R. ANDERSON

37 Attorney for Plaintiff
38 621 East Main Street
39 P. O. Box 109
40 Santa Paula, California 93060

One such action, filed August 26, 1965, was entitled
TUCKER v. NEAL, Santa Barbara Superior Court No. 74839. The
defendant there is the plaintiff here, and the action was
concluded in her favor by judgment of dismissal.

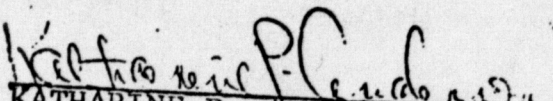
Plaintiff's claim for relief herein is founded upon
a judgment given in NEAL v. TUCKER, Ventura Superior Court No.
50686, which established that defendant's Santa Barbara action
was a malicious prosecution and awarded her damages whose
recovery is now sought.


ROBERT R. ANDERSON

SUBSCRIBED and sworn to before me this 1st day of
September 1971.



621 E. Main St., P. O. Box 109, Santa Paula, Ca. 93060


KATHARINE P. ANDERSON

POINTS and AUTHORITIES

Plaintiff seeks the issuance of summons in the form attached hereto, for service by plaintiff's counsel (or his employee) upon defendant at his residence in Connecticut, by means of certified air mail, with a return receipt requested.

To that end, this memorandum will try to establish the following propositions:

(a) That defendant, although a resident of Connecticut and not presently to be found in California, is nevertheless subject to the exercise of this Court's state-derived "long-arm" jurisdiction.

(b) That that jurisdiction may be exercised by service of summons in the manner proposed.

(c) That the summons to be thus served should be in the form attached.

(d) That the summons, when issued, should be sent to plaintiff's counsel for service, and not delivered to the marshal.

Personal Jurisdiction over Defendant

A federal court in a diversity action may exercise personal jurisdiction over a nonresident defendant in accordance with the law of the state in which it sits, subject always to the requirements of fundamental fairness under the Due Process Clause. *Mechanical Contractors Ass'n of America, Inc. vs Mechanical Contractors Ass'n of Northern California, Inc.* (9th Cir., 1965), 342 F.2d 393, 398-99; see *Kenny vs Alaska Airlines*,

Inc. (D.C., Cal. 1955), 132 F.Supp. 838. Generally, see Wright & Miller, 4 Fed.Prac.& Proc. § 1075, citing chiefly Arrowsmith vs United Press International (2d Cir., 1963), 320 F.2d 219; 2 Moore's Fed.Prac. ¶ 4.41-1[3].

1 California has removed all limitations of its own
2 the extraterritorial reach of its courts, and thus of the
3 courts within its districts:

4 "A court of this state may exercise jurisdiction
5 on any basis not inconsistent with the Constitution
6 of this state or of the United States." Calif.Code
7 Civ.Proc., § 410.10. See Witkin, 1 Calif.Proc.2d
8 532; 21 Hast. L.R. 1163.

9 The question, then, is whether, under the circumstances,
10 STANLEY V. TUCKER is constitutionally amenable to suit in this
11 action. The answer comes from International Shoe Co. vs State
12 of Washington (1945), 326 U.S. 310, 316, 66 S.Ct. 154, 90 L.Ed.
13 95, 161 ALR 1057:

14 "* * * due process requires only that in order to
15 subject a defendant to a judgment in personam, if
16 he be not present within the territory of the forum,
17 he have certain minimum contacts with it such that
18 the maintenance of the suit does not offend 'tradi-
19 tional notions of fair play and substantial justice.'"

20 The "minimum contacts" requirement may be satisfied by nothing
21 more than isolated activity. McGee vs International Life Ins.
22 Co. (1957), 355 U.S. 220, 78 S.Ct. 199, 2 L.Ed.2d 223. Even

23 single act --- especially one giving rise to the cause of action
24 --- will warrant the assertion of jurisdiction over a nonresident.
25 A tort committed within the forum state is such an act. Rosen-
26 blatt vs American Cyanamid Co. (1965), 86 S.Ct. 1, 15 L.Ed.2d 99.
27 See annotation, 24 ALR3d 532.

28 Defendant has undertaken substantial contacts with the
29 State of California. He made a home here with his family. Though
30 he subsequently left the state, his dependent children remained,
31 and he himself returned time and time again. Of more importance
32 is his own unabashed recourse to the courts of this state.

1 Hanson vs Denckla (1958), 357 S. 235, 253, 78 S.Ct. 1228, 1
2 2 L.Ed.2d 1283, is perhaps the most restrictive application of
3 the principle of minimum contacts. Wright & Miller, 4 Fed.Proc.
4 & Proc. § 1067, pp. 237-241. The Supreme Court there said: "[T]he
5 is essential in each case that there be some act by which the
6 defendant purposefully avails himself of the privilege of
7 conducting activities within the forum State, thus invoking
8 the benefits and protections of its laws." Defendant did
9 precisely that when, in filing action No. 74839 in the Santa
10 Barbara Superior Court, he committed the tort leading to the
11 judgment now sued upon.

13 Manner of Service

14 Rule 4(e), F.R.Civ.P., by language added in 1963, reads
15 in part:

16 " * * * Whenever a statute or rule of court of the
17 state in which the district court is held provides
18 (1) for service of a summons * * * upon a party not

19 an inhabitant of or found within the state, * * *
20 service may * * * be made under the circumstances
21 and in the manner prescribed in the statute * * *."
22 Calif.Code Civ.Proc., § 415.40 provides for service of summons
23 on such a party, as follows:

24 "A summons may be served on a person outside
25 this state in any manner provided by this article
26 or by sending a copy of the summons and of the
27 complaint to the person to be served by any form
28 of airmail requiring a return receipt. Service of
29 a summons by this form of mail is deemed complete
30 on the 10th day after such mailing."

31 Service of summons in accordance with Section 415.40,

1 Prac.& Proc. § 1074, p. 294, fn. 97, citing Hess vs Pawlson
2 (1927), 274 U.S. 352, 47 S.Ct. 632, 71 L.Ed. 1091.

3 4 Form of Summons

5 "* * * When, under Rule 4(e), service [of summons]
6 is made pursuant to a statute or rule of court of
7 a state, the summons * * * shall correspond as nearly
8 as may be to that required by the statute or rule."

9 Rule 4(b), F.R.Civ.P.

10 "Thus where a valid state statute or rule of court is
11 utilized under Rule 4(e), the state form for the summons, or
12 notice, or order in lieu of summons is to be followed as nearly
13 as may be practicable under the circumstances of the case. Where
14 state practice under such statute or rule, for example, calls
15 for substituted personal service to be made outside the state,
16 or for service by mail or by publication, the state form for
17 such process is to be followed." 2 Moore's Fed.Prac. ¶ 4.07[2].

19 The form of summons served pursuant to state statutes
20 is prescribed by Calif.Code Civ.Proc., § 412.20, and the form
21 attached hereto corresponds thereto as nearly as may be.
22

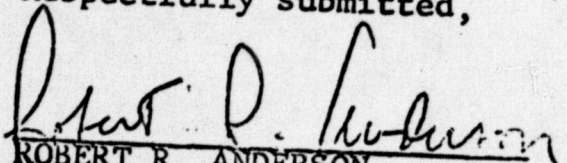
23 Transmittal of Summons to Plaintiff's Counsel

24 Rule 4(c), F.R.Civ.Proc., provides without qualification
25 that all process shall be served by the U.S. marshal or someone
26 specially appointed for the purpose. Rule 4(c), however,
27 authorizes service out of state in the manner prescribed by
28 state law. These provisions have been judicially reconciled:
29 "[W]hen the manner of service under Rule 4(d)(7) or Rule 4(c)
30 is other than personal --- for example, service by mail or by
31 publication --- the courts have developed an exception to Rule
32 4(c), which has been accepted by the Advisory Committee, to the
1 effect that a marshal or any other person authorized to make
2 service under Rule 4(c) need play no part in the process."
3 Wright & Miller, 4 Fed.Prac.& Proc. § 1092, p. 354. In such
4 cases, service may be made pursuant to state law. Ibid., § 1100.
5 See also, 2 Moore's Fed.Prac. ¶ 4.08. In California, summons
6 may be served by anyone 18 years of age who is not a party to
7 the action. Calif.Code Civ.Proc., § 414.10.

8 The exception to Rule 4(c) logically must extend to the
9 related provision of Rule 4(a), which directs the clerk, upon
10 the filing of a complaint, to "forthwith issue a summons and
11 deliver it for service to the marshal or to a person specially
12 appointed to serve it."

13 here, it is contemplated that plaintiff's
14 counsel or his employee will effect service by mail. There is
15 no reason, under these circumstances, for summons to be diverted
16 to the marshal. In the interests of expeditious prosecution of
17 the action, summons ought to be issued and forwarded directly to
18 plaintiff's counsel.
19
20

Respectfully submitted,


ROBERT R. ANDERSON

1 ANDERSON & ANDERSON
2 ATTORNEYS AT LAW
3 621 EAST MAIN STREET
4 POST OFFICE BOX 109
5 PHONE (805) 525-5564 - 647-6377
6 Santa Paula, California 93060
7

8 Attorneys for Plaintiff
9

10 UNITED STATES DISTRICT COURT FOR THE
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 JEAN NEAL,

14 Plaintiff,

15 -vs-

16 STANLEY V. TUCKER,

17 Defendant.

18 Civil No. C-71 1447 AJZ
19

20 ORDER FOR ISSUANCE OF SUMMONS
21 FOR SERVICE OUT OF STATE
22

23 Upon the application of plaintiff JEAN NEAL for an order
24 for issuance of summons for service outside of this State, and
25 good cause therefor appearing from the affidavit and points and
26 authorities submitted in support thereof,
27

28 IT IS ORDERED that the Clerk of the Court forthwith
29 issue summons herein and mail the same to plaintiff's counsel of
record for service upon defendant in a manner authorized by
Rule 4(e), Federal Rules of Civil Procedure.

Dated: September 7, 1971.

-E 10-

ALFONSE J. ZIRPOLI
United States District Judge

3 Santa Paula, California 93000

4
5 Attorneys for Plaintiff

FILED
OCT 14 1971
C. C. EVENSEN, Clerk

8 UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 JEAN NEAL,

12 Plaintiff,

13 -vs-

14 STANLEY V. TUCKER,

15 Defendant.

Civil Action No. C-71 1447 AJZ

AFFIDAVIT OF SERVICE

16
17
18 State of California)
19 County of Ventura) ss

20 I, ROBERT R. ANDERSON, being first duly sworn, state
21 the following:

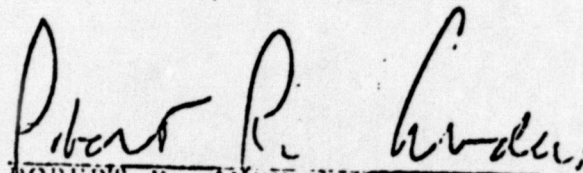
22 I was, at the time of the service of summons described
23 below, over the age of 18 years and not a party to the above-
24 entitled action.

25 I served the annexed summons by enclosing a true copy
26 thereof, together with a copy of the complaint on file, in a
27 sealed envelope marked for certified air mail, return receipt
28 requested, with postage thereon fully prepaid, and by placing the
29 same in the United States mail at Santa Paula, California, on
30 September 9, 1971, addressed as follows:

31 MR. STANLEY V. TUCKER
32 963 Capitol Avenue
Hartford, Connecticut 06106

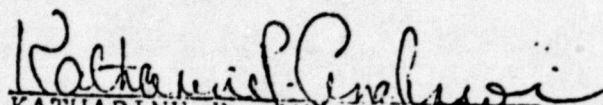
1 The certified mail receipt therefor, indicating
2 to addressee only and bearing the signature "S V TUCKER," w
3 subsequently returned to me by mail and is attached to this
4 affidavit below.

5 I charged no fee for such service.

6
7
8 
9 ROBERT R. ANDERSON

10
11 SUBSCRIBED and sworn to before me this 12th day of
12 October 1971.



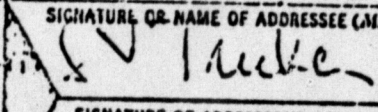

KATHARINE P. ANDERSON

23 Deliver to Addressee Only

INSTRUCTIONS TO DELIVERING EMPLOYEE	
<input type="checkbox"/> Show to whom, date, and address where delivered	<input checked="" type="checkbox"/> Deliver ONLY to addressee
(Additional charges required for these services)	

24 RECEIPT

25 Received the numbered article described below.

REGISTERED NO.	
CERTIFIED NO.	
547751	
INSURED NO.	

26 SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

27 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

TABULATION OF LONG ARM STATUTES FOR ALL FIFTY STATES.

Short summaries of content of statutes are provided below as well as the statute number. In addition all of the nine states that have statutes permitting jurisdiction based on alleged out of state acts with in state injury or partly out of state and partly in state acts are quoted verbatim.

STATE	STATUTE	JURISDICTION OVER
1. ALABAMA	Title 7 S 199	auto accidents
	Title 7 S 199.1	doing business
2. ALASKA	Chapter 05 S 09.05.020	
3. ARIZONA	none	
4. ARKANSAS	27-339	domicile
	27-339.1	commits acts
	27-340	doing business
	27-342.1	auto accidents
5. CALIFORNIA	CCP 410.10	

§ 410.10. [Jurisdiction exercisable]

A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

Added Stats 1969 ch 1610 § 3, operative July 1, 1970.

6. COLORADO	none
7. CONNECTICUT	G. S. 52-59b

§ 52-59b. Jurisdiction of courts over nonresidents and foreign partnerships. Service of process

(a) As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident individual or foreign partnership, or his or its executor or administrator, who in person or through an agent: (1) Transacts any business within the state; or (2) commits a tortious act within the state, except as to a cause of action for defamation of character arising from such act; or (3) commits a tortious act without the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from such act, if he (A) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or (B) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce; or (4) owns, uses or possesses any real property situated within the state.

(b) Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.

STATE	STATUTE	JURISDICTION OVER
8. DELAWARE	Title 10 S 3104	doing business
	Title 10 S 3112	auto accidents
9. FLORIDA	48.071	doing business
	48.171	auto accidents
	48.119	operate water craft
10. GEORGIA	Title 81A-104(2)	real property and in rem
11. HAWAII	Title 34 S634-59/60	property
12. IDAHO	Title 5-514	a. transacts business b. commits tort in state c. owns real property d. contracts to insure e. divorce domicile
13. ILLINOIS	17 Civ P Act	a. transact business b. commit tort c. own property d. contract to insure e. divorce domicile
14. INDIANA	Trial Rule 4.4	

Trial Rule 4.4

SERVICE UPON PERSONS IN ACTIONS FOR ACTS DONE IN THIS STATE OR HAVING AN EFFECT IN THIS STATE

(A) Acts serving as a basis for jurisdiction. Any person or organization that is a nonresident of this state, a resident of this state who has left the state, or a person whose residence is unknown, submits to the jurisdiction of the courts of this state as to any action arising from the following acts committed by him or his agent:

- (1) doing any business in this state;
- (2) causing personal injury or property damage by an act or omission done within this state;
- (3) causing personal injury or property damage in this state by an occurrence, act or omission done outside this state if he regularly does or solicits business or engages in any other persistent course of conduct, or derives substantial revenue or benefit from goods, materials, or services used, consumed, or rendered in this state;
- (4) having supplied or contracted to supply services rendered or to be rendered or goods or materials furnished or to be furnished in this state;
- (5) owning, using, or possessing any real property or an interest in real property within this state; or
- (6) contracting to insure or act as surety for or on behalf of any person, property or risk located within this state at the time the contract was made;
- (7) living in the marital relationship within the state notwithstanding subsequent departure from the state, as to all obligations arising from an Indiana judgment for alimony, custody, child support, or property settlement, if the other party to the marital relationship continues to reside in the state.

STATE	STATUTE	JURISDICTION OVER
15. IOWA	Title 42 S 617.3	commits tort
16. KANSAS	Title 8-401	auto accidents
17. KENTUCKY	454.210	<p>454.210 Personal jurisdiction of courts over nonresidents; process, how served; venue.</p> <p>(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.</p> <p>(1968 II 33, § 1. Eff. 6-13-68)</p> <p>(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:</p> <ol style="list-style-type: none"> 1. Transacting any business in this Commonwealth; 2. Contracting to supply services or goods in this Commonwealth; 3. Causing tortious injury by an act or omission in this Commonwealth; 4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth; 5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth; 6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated; 7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting. <p>(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.</p> <p>(1968 II 33, § 2. Eff. 6-13-68)</p>

STATE

STATUTE

JURISDICTION OVER

18. LOUISIANA

R.S. 13:3201

- a. transacts business
- b. contracts to supply
- c. commits tort in state

R.S. 13:3201 JURISDICTION AND VENUE

(d) causing injury or damage in this state by an offense or quasi offense committed through an act or omission outside of this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state; or

(e) having an interest in, using, or possessing a real right or immovable property in this state. Added Acts 1964, No. 47, § 3.

19. MAINE

Ch 203 Title 14 S 704

- a. transact business
- b. commits tort
- c. real property
- d. contract to insure

20. MARYLAND

Art 75Sec 96

Art. 75, § 96

ANNOTATED CODE OF MARYLAND

Art. 75, § 96

§ 96. Personal jurisdiction over person as to cause of action arising from business, etc., in State.

(a) A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's

- (1) Transacting any business in this State;
- (2) Contracting to supply services in this State;
- (3) Causing tortious injury in this State by an act or omission in this State;
- (4) Causing tortious injury in this State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in this State or derives substantial revenue from food or services used or consumed in this State;

(5) Having an interest in, using, or possessing real property in this State; or

(6) Contracting to insure or act as surety for, or on, any person, property, or risk, contract, obligation, or agreement located, executed or to be performed within this State at the time of contracting, unless the parties otherwise provide in writing.

(b) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him. (1964, ch. 95, § 1; 1965, ch. 749; 1968, ch. 707.)

21. MASSACHUSETTS GLA 223 Section 3

§ 3. Transactions or conduct for personal jurisdiction

A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action in law or equity arising from the person's

- (a) transacting any business in this commonwealth;
 - (b) contracting to supply services or things in this commonwealth;
 - (c) causing tortious injury by an act or omission in this commonwealth;
 - (d) causing tortious injury in this commonwealth by an act or omission outside this commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this commonwealth;
 - (e) having an interest in, using or possessing real property in this commonwealth;
- or
- (f) contracting to insure any person, property or risk located within this commonwealth at the time of contracting.

Added by St.1965, c. 769. Amended by St.1969, c. 623.

1962 Enactment. St.1965, c. 769, was approved July 25, 1965. 1969 Amendment. St.1969, c. 623, inserted "in law or equity".

22. MICHIGAN

Vol 27A 701

- a. served in state
- b. domicile in state
- c. consent

23. MINNESOTA

532. 19

543.19 Personal jurisdiction over nonresidents

Subdivision 1. As to a cause of action arising from any acts enumerated in this subdivision, a court of this state with jurisdiction of the subject matter may exercise personal jurisdiction over any foreign corporation or any non-resident individual, or his personal representative, in the same manner as if it were a domestic corporation or he were a resident of this state. This section applies if, in person or through an agent, the foreign corporation or non-resident individual:

- (a) Owns, uses, or possesses any real or personal property situated in this state, or
- (b) Transacts any business within the state, or
- (c) Commits any tort in Minnesota causing injury or property damage, or
- (d) Commits any tort outside of Minnesota causing injury or property damage within Minnesota, if, (1) at the time of the injury, solicitation or service activities were carried on within Minnesota by or on behalf of the defendant, or (2) products, materials or things processed, serviced or manufactured by the defendant were used or consumed within Minnesota in the ordinary course of trade.

Subd. 2. The service of process on any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the summons upon the defendant outside this state with the same effect as though the summons had been personally served within this state.

Subd. 3. Only causes of action arising from acts enumerated in subdivision 1 may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

STATE	STATUTE	JURISDICTION OVER
24. MISSISSIPPI	Title 10 S 1437	a. contract in state b. do business in state c. commit tort
25. MISSOURI	AMS 5061500	a. transact business b. contract in state c. commit tort d. real property e. contract to insure
26. MONTANA	none	
27. NEBRASKA	25-536	

25-536. Jurisdiction over a person. (1) A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

- (a) Transacting any business in this state;
 - (b) Contracting to supply services or things in this state;
 - (c) Causing tortious injury by an act or omission in this state;
 - (d) Causing tortious injury in this state by an act or omission outside this state if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state;
 - (e) Having an interest in, using, or possessing real property in this state; or
 - (f) Contracting to insure any person, property, or risk located within this state at the time of contracting.
- (2) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him.

28. NEVADA	NRS 14.070	auto accidents
	NRS 14.080	product liability
29. NEW HAMPSHIRE	none	
30. NEW JERSEY	none	
31. NEW MEXICO	21-3116	a. transact business b. auto accident c. commit tort d. contract to insure e. divorce domicile

32. NEW YORK

Civ Rule Sec 302

§ 302. Personal jurisdiction by acts of non-domiciliaries

(a) Acts which are the basis of jurisdiction. As to a cause of action arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nondomiciliary, or his executor or administrator, who in person or through an agent:

1. transacts any business within the state; or
2. commits a tortious act within the state, except as to a cause of action for defamation of character arising from the act; or
3. commits a tortious act without the state causing injury to person or property within the state, except as to a cause of action for defamation of character arising from the act, if he
 - (i) regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in the state, or
 - (ii) expects or should reasonably expect the act to have consequences in the state and derives substantial revenue from interstate or international commerce; or
4. owns, uses or possesses any real property situated within the state.

(b) Effect of appearance. Where personal jurisdiction is based solely upon this section, an appearance does not confer such jurisdiction with respect to causes of action not arising from an act enumerated in this section.

L.1962, c. 308; amended L.1966, c. 590, eff. Sept. 1, 1966.

Source of Section: New.

33. NORTH CAROLINA	G. S. 1-105	auto accidents
	Civ Rule SjlAl Rule 4jl where service accepted	
34. NORTH DAKOTA	Civ P Rule 4 (e)	personal service doing business-serve agent
35. CHIO	S 2703.20	auto accident
36. OKALAHOMA	12S187	a. doing business b. acts in state c. product liability d. contract to insure
37. OREGON	14.035	a. transact business b. commit tort c. real property d. contract to insure

STATE	STATUTE	JURISDICTION OVER
38. PENNSYLVANIA	none	
39. RHODE ISLAND	9-5-33	necessary minimum contacts with state
40. SOUTH CAROLINA	46-104	auto accidents
41. SOUTH DAKOTA	15-7-2	a. doing business b. commit tort c. real property d. contract to insure e. contract services/materials f. officer of corp in state
42. TENNESSE	20-235	

20-235. Jurisdiction of persons unavailable to personal service in state—Classes of actions to which applicable.—Persons who are nonresidents of Tennessee and residents of Tennessee who are outside the state and cannot be personally served with process within the state are subject to the jurisdiction of the courts of this state as to any action or claim for relief arising from:

- (a) The transaction of any business within the state;
- (b) Any tortious act or omission within this state;
- (c) The ownership or possession of any interest in property located within this state;
- (d) Entering into any contract of insurance, indemnity, or guaranty covering any person, property, or risk located within this state at the time of contracting;
- (e) Entering into a contract for services to be rendered or for materials to be furnished in this state.

43. TEXAS	Title 42 Art 2031b Sec 4	a. doing business b. commit torts
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44. UTAH	none
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45. VERMONT	none
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46. VIRGINIA	<p>§ 8-81.2. When personal jurisdiction over person may be exercised.</p> <p>—(a) A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's</p> <ul style="list-style-type: none"> (1) Transacting any business in this State; (2) Contracting to supply services or things in this State; (3) Causing tortious injury by an act or omission in this State; (4) Causing tortious injury in this State by an act or omission outside this State if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this State; (5) Causing injury in this State to any person by breach of warranty expressly or impliedly made in the sale of goods outside this State when he might reasonably have expected such person to use, consume, or be affected by the goods in this State, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this State; (6) Having an interest in, using, or possessing real property in this State; or (7) Contracting to insure any person, property, or risk located within this State at the time of contracting.
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47. WASHINGTON

4:28.185

4.28.185 Personal service out of state—Acts submitting person to jurisdiction of courts—Saving. (1) Any person, whether or not a citizen or resident of this state, who in person or through an agent does any of the acts in this section enumerated, thereby submits said person, and, if an individual, his personal representative, to the jurisdiction of the courts of this state as to any cause of action arising from the doing of any of said acts:

- (a) The transaction of any business within this state;
- (b) The commission of a tortious act within this state;
- (c) The ownership, use, or possession of any property whether real or personal situated in this state;
- (d) Contracting to insure any person, property or risk located within this state at the time of contracting.

(2) Service of process upon any person who is subject to the jurisdiction of the courts of this state, as provided in this section, may be made by personally serving the defendant outside this state, as provided in RCW 4.28.180, with the same force and effect as though personally served within this state.

(3) Only causes of action arising from acts enumerated herein may be asserted against a defendant in an action in which jurisdiction over him is based upon this section.

48. WEST VIRGINIA

none

49. WISCONSIN

Vehicle Code S 345.09 auto accidents

50. WYOMING

S1-52

auto accidents

Civ P Rule 4 e

- a. real property recovery
- b. real property partition
- c. real property sale
- d. specific performance
- real property sale

CALIFORNIA CIVIL CODE OF PROCEDURE

CCP Section 170: "No justice or judge shall sit or act
as such in any action or proceeding:

- (5) When it is made to appear probable that, by reason of bias or prejudice of such justice or judge a fair and impartial trial cannot be had before him."

CCP Section 170.6 "Prejudice against party or attorney."

- (1) No judge or court commissioner of any superior, municipal or justice court of the state of California shall try any civil or criminal action or special proceeding of any kind or character nor hear any matter therein which involves a contested issue of law or fact when it shall be established as hereinafter provided that such judge or court commissioner is prejudiced against any party or attorney or the interest of any party or attorney appearing in such action or proceeding."

2 ATTORNEYS AT LAW
3 621 EAST MAIN STREET
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5 PHONE (805) 525-5564 . 647-6377
6 Santa Paula, California 93060

7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 JEAN NEAL,

12 Plaintiff,

13 -vs-

14 STANLEY V. TUCKER,

15 Defendant.

NO. _____

CIVIL

COMPLAINT
ON STATE JUDGMENT

17 1. Plaintiff is a citizen of the State of California,
18 and defendant is a citizen of the State of Connecticut. The
19 matter in controversy, exclusive of interest and costs, exceeds
20 \$10,000.00.

21 2. On April 23, 1969, in an action in the Superior Court
22 of the State of California, County of Ventura, judgment was duly
23 given in favor of plaintiff and against defendant in the sum of
24 \$20,723.61.

25 3. No part of the judgment has been paid.

26 WHEREFORE, plaintiff demands judgment against defendant
27 for the sum of \$20,723.61, interest, and costs.

28 
29 ROBERT R. ANDERSON

30 -H 1-

31 Attorney for Plaintiff
32 621 East Main Street
P. O. Box 109
Santa Paula, California 93060

CERTIFICATE OF SERVICE BY MAIL

I, STANLEY V. TUCKER, hereby certify that on the 30 day of August 1974 I served the document annexed, APPENDIX , on the Appellees herein by mailing 1 true copy thereof postage prepaid air mail by depositing in the United States mails at Hartford Conn addressed as follows:

JEAN NEAL

621 E. Main St
Santa Paula, Calif

ROBERT R. ANDERSON

ANDERSON & ANDERSON

621 E. Main St
Santa Paula, Calif.

By _____

STANLEY V. TUCKER